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Letter dated 29 January 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Eritrea to the United Nations addressed to the President of the Security Council

Upon instruction from my Government, I have the honour to bring two important matters to your attention at a time when the Security Council is considering the report of the Secretary-General on Ethiopia and Eritrea (S/2008/40).

1. The "border issue" between Eritrea and Ethiopia has come to a conclusion, in accordance with article 4.2 of the Algiers Peace Agreement of 12 December 2000. The border, as delimited by the Eritrea-Ethiopia Boundary Commission in its Award of 13 April 2002, was finally demarcated pursuant to the Border Commission's statement of 27 November 2006.[1] Following the delimitation decision, the final and binding demarcation of the boundary was expected to be completed within a six-month period. However, the process was held hostage by Ethiopia for nearly six years at a great human and financial cost.

The process of the final and binding demarcation has now been completed. The Boundary Commission has affirmed that the "boundary between Eritrea and Ethiopia now stands automatically demarcated by boundary points listed in the annex to the 27 November 2006 statement, and [it] considers that it has fulfilled the mandate given to it". The Boundary Commission has officially presented the maps indicating the boundary coordinates between Eritrea and Ethiopia to the two countries and the United Nations. In its twenty-sixth report, the Boundary Commission has also reaffirmed "the considerations of fact and statements of law set out in its statement of 27 November 2006". In the same statement, the Boundary Commission has clearly stated that "[t]he Delimitation Decision of 13 April 2002 and the Statement of 27 November 2006 remain binding on the Parties". It is to be recalled that under the Algiers Agreement, Eritrea and Ethiopia have agreed to accept the delimitation and demarcation determination of the Boundary Commission as "final and binding". This has also been recognized by the Security Council on several occasions.[2]

[1] In its resolution 1741 (2007) of 30 January 2007, the Council acknowledged the statement.

[2] Among many such statements, the Council in its resolution 1741 (2007) recalled "that both parties have agreed to accept the delimitation and demarcation determinations of the Eritrea-Ethiopia Boundary Commission as final and binding".

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The final and binding delimitation and demarcation of the boundary is exclusively the mandate of the Boundary Commission. Therefore, no State or body has the right to intervene in the process of delimitation and demarcation of the boundary or try to change the decisions of the Commission.

The characterization of the Border Commission's final and binding decision as "legal nonsense" and "legal fiction" by Ethiopia and its appeasers, although of little significance, is outrageous. These statements not only contravene the Algiers Agreement but also insult the wisdom of the Commission, which is composed of legal experts of the highest esteem. These manoeuvres, which seem to be aimed at creating an alternative mechanism, have no relevance at this stage when the final and binding demarcation process has been concluded.

The issue that requires the Council's urgent attention is Ethiopia's continued occupation of sovereign Eritrean territory in violation of the Algiers Agreement, the Charter of the United Nations and relevant principles of international law. My Government strongly urges the Security Council to focus on the fundamental issue of Ethiopia's withdrawal from sovereign Eritrean territory. This issue is of paramount importance for the maintenance of peace and security between the two countries and the region.

2. In total disregard of Eritrea's previous protests and concerns, the report of the Secretary-General on Ethiopia and Eritrea (S/2008/40) was presented on 26 January 2008 by the "Acting Special Representative of the Secretary-General" for the United Nations Mission in Ethiopia and Eritrea who is based in Addis Ababa. I wish to convey, once again, my Government's strong protest over this matter, which should have been resolved when Eritrea initially expressed its concern and disapproval (in S/2006/1036 and in a letter dated 15 February 2007 to the President of the Security Council) about this particular United Nations official.

I should be grateful if the present letter could be circulated as a document of the Security Council.

(*Signed*) Tesfa Alem **Seyoum**
Chargé d'affaires a.i.